

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0079P
Gross and Adjusted Gross Income Tax
For Calendar Year 2001**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its return with payment of \$62,352 that included \$2,398 in interest on September 12, 2002 and was assessed a late penalty. The original due date of the return was April 15, 2002.

Taxpayer's representative filed a penalty protest dated November 11, 2002. Taxpayer states that the penalty is a result of an unintentional error in the calculation of the Indiana gross receipts tax. The taxpayer further states that the appropriate calculation of the Indiana Income Tax base was overlooked and steps have been taken by them and its CPA firm to remedy this in the future periods. Taxpayer paid 32.64% of its tax by the due date of the return.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that the penalty was the result of an unintentional error.

Taxpayer was assessed a penalty for the late payment of its taxes.

Taxpayer failed to remit 67.36% of its tax by the original due date of the return as required under IC 6-8.1-10-2.1(a)(2). The penalty is ten percent (10%) of the amount of tax not paid, if the person fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment.

0220030079P.LOF

Page 2

Taxpayer made payment after the due date of the return and has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DW/RAW/JMS/dw 032003